



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

4949-A Cox Road, Glen Allen, Virginia 23060

(804) 527-5020 Fax (804) 527-5106

www.deq.virginia.gov

Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Michael P. Murphy
Regional Director

**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
COLUMBIA/HCA JOHN RANDOLPH, INC.
FOR
JOHN RANDOLPH MEDICAL CENTER
EPA ID No. VAD982570517**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Columbia/HCA John Randolph, Inc., regarding the John Randolph Medical Center, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

5. "Facility" or "Site" means the Columbia/HCA John Randolph, Inc.'s John Randolph Medical Center located at located at 411 West Randolph Road, Hopewell, Virginia.
6. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
7. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
8. "LQG" means large quantity generator, a hazardous waste generator that generates 1000 kilograms (2200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(a)-(b) and (g)-(l).
9. "JPMC" means Columbia/HCA John Randolph, Inc., a corporation authorized to do business in Virginia and its affiliates, partners and subsidiaries. JPMC is a "person" within the meaning of Va. Code § 10.1-1400.
10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
11. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
12. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
13. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effected date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.
14. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
15. "SQG" means a small quantity generator, a hazardous waste generator that generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(d)-(f).
16. "Va. Code" means the Code of Virginia (1950), as amended.
17. "VAC" means the Virginia Administrative Code.

18. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

SECTION C: Findings of Fact and Conclusions of Law

1. John Randolph Medical Center (the Facility) is a 147-bed medical/surgical healthcare facility, offering general and acute care services. The hospital maintains an emergency room, gastrointestinal, intensive care, oncology, telemetry, behavioral health units as well as outpatient services. The original hospital was opened in 1935. Currently, Columbia/HCA John Randolph, Inc. (JRMCI) owns the Facility. The Facility employs over 100 full-time staff and is open twenty four hours a day, seven days per week. The Facility is located in the center of Hopewell, Virginia. The surrounding land use in all directions is commercial/industrial. JRMCI generates hazardous waste during pharmaceutical compounding and dispensary operations and patient care (administration of medications).
2. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations. JRMCI first notified of hazardous waste activities as a small quantity generator (SQG) on May 16, 1989 and revised notification on December 14, 1999 as a conditionally exempt small quantity generator (CESQG). The Facility revised notification of hazardous waste activities as a large quantity generator (LQG) on January 12, 2012. JRMCI was issued EPA ID Number VAD982570517 for the Facility.
3. JRMCI generates a number of solid waste types that are hazardous at this Facility including: Characteristically hazardous and listed wastes, pharmaceuticals (D001, D007, D009, D010, D011, D013, D022, D024, P001, P075, P188, U010, U058, U118, U129, U150, U188, U204, U205); aerosols (D001, D003) and is a small quantity handler of universal waste. This hazardous waste is accumulated in containers at the Facility after its generation.
4. On May 22, 2013, DEQ staff conducted a compliance inspection of the Facility. The following describe factual observations made during the inspection and the applicable legal requirement.
 - a. DEQ staff observed four of six hazardous waste satellite accumulation areas (SAA) located in the pharmacy area and on the patient care floors. At the time of the inspection, three of the four SAA containers were observed open.

40 CFR 265.173(a), as required by 40 CFR 262.34(c)(1), states a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

- b. Facility staff stated during the inspection that weekly inspections of the < 90 day hazardous waste accumulation area [in the basement] were not being conducted and no logs of weekly inspections were available for review.

40 CFR 265.174, as required by 40 CFR 262.34(a), states: At least weekly, the owner or operator must inspect areas where containers are stored...the owner or operator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.

- c. At the time of the inspection, DEQ staff observed that containers of hazardous waste accumulated in the < 90 day accumulation area did not have accumulation start dates.

40 CFR § 262.34(a) states: Except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status provided that: (2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

- d. DEQ observed and documented that a box labeled as and stated by Facility staff to contain "Universal Waste Lamps" was opened with lamps stacked on top, uncontained.

40 CFR § 273.13(d) states...A small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows: A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

- e. DEQ staff noted that the JRMC had notified as a large quantity generator of hazardous waste in January 2012. However, there was no record in the DEQ records to indicate that the Facility had provided notification of the exact location of the hazardous waste accumulation area.

9 VAC 20-60-262(B)(4) states...In the case of a new generator who creates such accumulation areas after March 1, 1988, he shall notify the department at the time the generator files the Notification of Hazardous Waste Activity that he intends to accumulate hazardous waste in accordance with 40 CFR 262.34. This notification shall specify the exact location of the accumulation area at the site.

- f. At the time of the inspection, the Facility did not submit a training program for the Facility staff responsible for conducting hazardous waste management operations including the names, titles, and job description of each employee as well as a written description of the type and amount training provided. Training records for all Facility staff engaged in hazardous waste management were not available.

40 CFR 265.16(d), as required by 40 CFR 262.34(a), states the owner or operator must maintain the following documents and records at the facility: (1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; (2) A written job description for each position listed under paragraph (d)(1) of this Section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position; (3) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph (d)(1) of this section; (4) Records that document that the training or job experience required under paragraphs (a), (b), and (c) of this section has been given to, and completed by, facility personnel. (e) Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

- g. At the time of the inspection, the Facility did not submit a contingency plan or some other emergency plan, and this document was not available for review by DEQ staff.

40 CFR 265.51(a) States: Each owner or operator must have a contingency plan for his facility. The contingency plan must be designed to minimize hazards to human health or the environment...40 CFR 265.53 states: A copy of the contingency plan and all revisions to the plan must be: (a) Maintained at the facility; and (b) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

- 5. On June 21, 2013, based on the inspection and follow-up information, the Department issued Notice of Violation No. 2013-06-PRO-602 to the JRMC for the violations described in paragraphs C(4)(a) through C(4)(h), above.
- 6. On July 11, 2013, Department staff met with representatives of JRMC to discuss the violations.

7. On July 20, 2013, JRMC, submitted a formal written response to the violations cited in the NOV. Included with the response were the following documentation: (1) a new inspection checklist addressing the weekly inspection failure described in Section C4c; (2) A list of container locations addressing the violation described in Section C(4)(f); (3) documentation of staff training with a list of staff members their titles and job descriptions addressing the lack of training records in Section C(4)(g); (4) a copy of a corporate contingency plan addressing the violation described in Section C(4)(h). The response also included a description of changes to standard operating procedures to bring JRMC in compliance with the other issues raised in Section C(4). On January 13, 2014, JRMC supplemented its initial response. The submittals and changes made by JMRC are currently under review by the Department.
8. Based on the results of the May 22, 2013, inspection, the July 11, 2013 meeting, and/or the documentation submitted on July 20, 2013, the Board concludes that JRMC has violated 40 CFR § 262.34(c)(1); 40 CFR § 265.173(a); 40 CFR § 262.34(c)(2); 40 CFR § 265.174; 40 CFR § 262.34(a)(2); 40 CFR § 273.13(d)(1); 9 VAC 20-60-262(B)(4); 40 CFR § 265.16(d); 40 CFR § 265.16(e); 40 CFR § 265.51(a); and, 40 CFR § 265.53 as described in paragraphs C(4)(a) through C(4)(h), above.
9. In order for JRMC to complete its return to compliance, DEQ staff and representatives of JRMC have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders JRMC, and JRMC agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$26,900 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

JRMC shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

If the Department has to refer collection of moneys due under this Order to the Department of Law, JRMC shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of JRMC for good cause shown by JRMC, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, JRMC admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein
4. JRMC consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. JRMC declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by JRMC to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. JRMC shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. JRMC shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. JRMC shall

notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the JRMC intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and JRMC.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after JRMC has completed all of the requirements of the Order;
 - b. JRMC petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to JRMC.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve JRMC from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by JRMC and approved by the Department pursuant to this Order are incorporated into this Order. Any

non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of JRMC certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind JRMC to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of JRMC.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, JRMC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 8th day of DECEMBER, 2014.



Michael P. Murphy, Regional Director
Department of Environmental Quality

----- (Remainder of Page Intentionally Blank) -----

Columbia/HCA John Randolph, Inc. voluntarily agrees to the issuance of this Order.

Date: 10/17/14 By: *Matthew Oliver*, CFO
(Person) (Title)
Columbia/HCA John Randolph, Inc.

Commonwealth of Virginia

City/County of Hopewell

The foregoing document was signed and acknowledged before me this 14 day of
October, 2014, by Matthew Oliver who is
CFO of Columbia/HCA John Randolph, Inc., on behalf of the
corporation.

Debra W. Stump
Notary Public

329164
Registration No.

My commission expires: 4-30-15

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Container Management

JRMC shall manage all containers in accordance with the requirements of 40 CFR §§ 262.34 and 265.171.

- a. By December 31, 2014, JRMC shall submit photographs and documentary evidence demonstrating that the containers at the Facility are being maintained in good condition in accordance with the regulatory requirements.
- b. JRMC shall respond to any notices of deficiency with respect to the condition of its containers or its documentation in accordance with the notice.

2. Contingency Plan

JRMC has developed a contingency plan for the Facility in accordance with 40 C.F.R. § 265 Subpart D and has submitted a copy of it to the Department for review.

- a. If the contingency plan submitted by JRMC is found by the Department to be inaccurate or deficient, JRMC shall respond and correct any inaccuracies or deficiencies regarding the plan within 10 days from receiving the notice of the inaccuracy or deficiency.
- b. Within 10 days after final approval by the Department, JRMC shall certify in writing that a copy of the contingency plan has been provided to the necessary parties under 40 C.F.R. § 265.53 and that the contingency plan will be implemented, as needed, in accordance with 40 C.F.R. Subpart D.

3. Records and Standard Operating Procedure Changes

JRMC submitted records to the Department on July 20, 2013, and descriptions of Standard Operating Procedure (SOP) changes to bring the Facility into compliance with RCRA regulations. If the SOP changes and/or records submitted by JRMC are found by the Department to be inaccurate or deficient, JRMC shall respond and correct any inaccuracies or deficiencies regarding the SOPs within 10 days from receiving the notice of the inaccuracy or deficiency.

4. Contact

Unless otherwise specified in this Order, JRMC shall submit all requirements of Appendix A of this Order to:

Frank Lupini
Enforcement Specialist
VA DEQ –Piedmont Regional Office
4949A Cox Road,
Glen Allen, Virginia 23060
Frank.Lupini@deq.virginia.gov